

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ **APR 02 2025**

★ **IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**
LONG ISLAND OFFICE

★**FILED**★

2025 APR -2 AM 9:02

The Bank of New York Mellon fka The Bank of New York, as Trustee for the Certificate holders of CWALT, Inc., Alternative Loan Trust 2006-OA11, Mortgage Pass-Through Certificates, Series 2006-OA11

Plaintiff,

Vs.

Mario E. Castro; Magdalena D. Castro; et al.

Defendants.

Case No. 25-cv-01608-PKC-JMW

**PETITION FOR ENTRY OF
DEFAULT JUDGMENT
PURSUANT TO RULE 55(b)(2)**

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EDNY PRO SE OFFICE

Comes now Mario E. Castro and Magdalena D. Castro herein "Counterclaimants"

**REC'D IN PRO SE OFFICE
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, appearing sui juris, respectfully petition and apply to this Court for entry of a default

judgment against Plaintiff, The Bank of New York Mellon et al., pursuant to Rule 5(b)(2)

of the Federal Rules of Civil Procedure, and in support thereof state as follows:

1. On February 10, 2025, Counterclaimants served their Counterclaim upon The Bank of New York Mellon et al. by filing it on the NYSCEF system. After direction from the Court Clerk, Counterclaimants refiled the Counterclaim on or about February 21, 2025 and labeled it "Exhibit 1A" which was also refiled again on February 27, 2025, and served on The Bank of New York Mellon et al. again through NYSCEF for a total of 3 services upon The Bank of New York Mellon et al. (See...Exhibits A1, A2, and A3 filed with the request for clerk's entry of default)
2. The Bank of New York Mellon et al. has failed to file any answer, motion, or responsive pleading within the time permitted by Federal Rule 12(a)(1)(B) which requires 21 days to respond and state rules NY CPLR § 3012(a) which require 20 days to respond.
3. Counterclaimants filed a Request for Clerk's Entry of Default pursuant to Rule 55(a), accompanied by sworn affidavits and proof of service supporting default.

4. As of the date of this filing, The Bank of New York Mellon et al. has failed to respond to the Counterclaim. Therefore, Counterclaimants now request entry of default judgment by the Court pursuant to Rule 55(b)(2).
5. The Counterclaim requests both monetary and non-monetary relief including: (a) declaratory judgment concerning promissory notes as legal tender; (b) order compelling acceptance of promissory note as payment; (c) injunction prohibiting The Bank of New York Mellon et al. from continuing or initiating foreclosure proceedings on the property subject to this litigation, that if there are any judgments or orders to foreclose, they must be reversed, vacated and denied under the provisions of this default judgment; (d) compensatory damages of \$3,500,000 and punitive damages of \$5,500,000; and (e) constitutional rights enforcement under the First, Fifth, Seventh, and Fourteenth Amendments.
6. The Bank of New York Mellon et al. is not a minor, incompetent person, or member of the armed services under the Servicemembers Civil Relief Act.

WHEREFORE, Counterclaimants respectfully request the Court to enter default judgment in their favor on all relief sought in their Counterclaim, and grant such other and further relief as the Court deems just and proper.

Date this 31 day of **March**, 2025.

RESPECTFULLY PRESENTED,



Mario E. Castro, Sui Juris
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Ph. 917-513-7741
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<p>The Bank of New York Mellon fka The Bank of New York, as Trustee for the Certificate holders of CWALT, Inc., Alternative Loan Trust 2006-OA11, Mortgage Pass-Through Certificates, Series 2006-OA11</p> <p>Plaintiff,</p> <p>Vs.</p> <p>Mario E. Castro; Magdalena D. Castro; et al.</p> <p>Defendants.</p>	<p>U.S. DISTRICT COURT E.D.N.Y.</p> <p>Case No. 25-cv-01608-PKC-JMW</p> <p>PROPOSED ORDER OF DEFAULT JUDGMENT PURSUANT TO RULE 55(b)(2)</p>
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This matter having come before the Court on the Petition of Defendants and Counterclaimants Mario E. Castro and Magdalena D. Castro, for entry of a default judgment against Plaintiff, The Bank of New York Mellon et al., and the Court having reviewed the submissions, and finding that Plaintiff has been served and failed to respond, and that good cause exists:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. Default judgment is entered in favor of Counterclaimants against The Bank of New York Mellon et al.
2. The Bank of New York Mellon et al. is deemed to have admitted all allegations set forth in the Counterclaim.
3. The Bank of New York Mellon et al. shall accept the promissory note as full satisfaction of the alleged debt.
4. The Bank of New York Mellon et al. is enjoined from continuing any foreclosure proceedings.

5. Defendants are awarded \$3,500,000 in compensatory damages and \$5,500,000 in punitive damages.
6. Counterclaimant's constitutional rights are affirmed and enforced.
7. The Clerk shall enter final judgment and close this case.

Dated: _____

HON. PAMELA K. CHEN
United States District Judge

CHAMBERS OF HON. MELANIE L. CYGANOWSKI
CHIEF JUDGE, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
THE ALFONSE M. D'AMATO U.S. COURTHOUSE
290 FEDERAL PLAZA
P.O. BOX 9013
CENTRAL ISLIP, NEW YORK 11722-9013

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